

REMARKS

Reconsideration of this application is requested in view of the forgoing amendments and the following remarks.

The status of the claims after the above amendments is as follows:

Claims 1-62 and 68-80 are cancelled;

Claims 63-76 are pending; and

Claims 63-67 have been rejected.

In order to minimize the issues in this application claims 74-78 have been cancelled without prejudice to filing these claims in a continuing application. The cancellation of these claims moots the rejections contained in paragraphs 6 to 10 of the official action.

Support for the amendments to claim 63 are found in paragraphs 102, 109 179, 182, 183, 184 and 185 of published application US 2001/34,530, the parent of the present application. No new matter has been added.

The examiner has rejected claims 63-67 under 35 U.S.C. §103(a) as unpatentable over Chader et al. (US5617857), hereafter "Chader," in view of Acker et al. (US6453190), hereafter "Acker '190," and further in view of Schulz (US5622170), hereafter "Schulz." This rejection is traversed in view of the above amendments.

Claim 63 sets out that the system has a scanning cycle having a determinable length based on the number of active instruments to be scanned. Further, the surgery system cycles successively through all of the smart instruments, and inactive instruments have the number of their LEDs set to zero in the system so that the system bypasses activating any LEDs of these instruments during each scan cycle. The advantage this provides is that by bypassing the LEDs of inactive units, the scan cycle can be shortened and the LEDs of each active unit are scanned more frequently. The fact that each instrument does not fire its respective LEDs when that instrument is not being scanned is very different from setting that instruments number of LEDs to zero temporarily so that the system will bypass or skip that instrument entirely during each scan cycle. In Chader, every instrument is connected to the system and there is no disclosure that indicates that any connected inactive instrument is skipped or bypassed during the scan cycle. Further Acker '190 is primarily a magnetic system that operates in a different fashion than the system of Chader. In a magnetic system the system measures the field strength of the magnets that are attached to each instrument relative to the reference field transducers and this is done

more or less continuously. Also because of the nature of magnetic fields, multiple instruments can interact with each other in that their respective fields will influence the data that is received by the reference field transducers. There is no system scan through the active instruments and therefore no need to skip or bypass an instrument. Similar to Chader, Schulz discloses a system that scans each connected instrument and as noted above, the fact that the system sequentially scans through the various connected instruments one at a time does not in any way disclose the temporary setting the number of LEDs to zero of an unused but active instrument so that this unused instrument can be skipped during the scan cycle. Because this feature of claim 63 is not disclosed or even remotely suggested by any of the cited documents, the rejection of claims 63-67 should be withdrawn.

The examiner has rejected claims 63-67 under 35 U.S.C. §103(a) as unpatentable over Cosman (US6675040), hereafter "Cosman," in view of Schulz. This rejection is traversed.

There is no disclosure in Cosman relative to a scanning cycle, and there is no disclosure of skipping or bypassing any instruments. As noted above, the fact that each instrument sequentially will fire its respective LEDs and consequently not fire its LEDs when another instrument is firing LEDs is very different from the claimed limitation that sets the number of LEDs to zero of certain instruments and only instructing those instruments that have not had their number of LEDs set to zero to sequentially fire LEDs during a scan cycle. Therefore the combination of Cosman and Schulz do not disclose or even suggest all the features of Claim 63. Therefore, this rejection is unwarranted and should be withdrawn.

Reconsideration and allowance of the foregoing claims are respectfully requested. The examiner is invited to call the undersigned attorney to discuss the pending claims for the purpose of expediting this prosecution.

Respectfully submitted,

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